

16°

TU+ LOCAL & STATE

## Hoosick Falls hires GE consultant for pollution PR

By Brendan J. Lyons | January 21, 2016

0



Photo: Michael P. Farrell

**Buy Photo**

Hoosick Falls Mayor David B. Borge during a community meeting regarding water pollution on Wednesday Dec. 2, 2015 in Hoosick Falls, N.Y. (Michael P. Farrell/Times Union)

*Hoosick Falls*

Hoosick Falls village officials secretly hired a Glens Falls public relations firm last month to help develop "an overall communications program" as criticism mounted about their decision to not warn residents to stop drinking water contaminated with a toxic chemical.



The hiring of Behan Communications, which for many years has handled public relations for General Electric Co. related to that company's pollution of the Hudson River, was not documented at a village meeting or publicly disclosed before the Times Union asked about the arrangement on Thursday. Rather, the Village Board authorized a Glens Falls law firm, FitzGerald Morris Baker Firth, to hire Behan Communications on its behalf.

The disclosure comes as questions are being raised about the village's contractual arrangement with the Glens Falls law firm. The firm has been negotiating a settlement agreement for the village with Saint-Gobain Performance Plastics, which owns a manufacturing plant near the village's underground wells that is a focus of the source of water pollution. Thomas Ulasewicz, an attorney for the law firm handling the work, declined repeated requests to be interviewed for this story.

Elevated levels of the toxic chemical, perfluorooctanoic acid, or PFOA, were found in the village water system in 2014 by Michael Hickey, a former village trustee whose father died of cancer. Hickey sent water samples to a Canadian lab that reported levels of PFOA that the EPA later said are not safe for human consumption. PFOA is a man-made chemical used to make non-stick and other household and commercial products that are heat-resistant and repel grease and water. PFOA exposure has been linked to increased health effects, including testicular and kidney cancer and thyroid disease.

## More Information

---

Here's a **timeline** of the Hoosick Falls water pollution issue

Hoosick Falls Mayor David B. Borge said he was too busy on Wednesday or Thursday for a telephone interview to respond to questions about the hiring of the public relations and law firms. Instead, Borge sent emails to the Times Union retracing the village's handling of the water pollution problem over the past year and its decision to hire outside attorneys and the public relations firm.

"We took this action in response to comments made by local residents that more outreach was needed," Borge wrote. "Joan Gerhardt, who heads Behan's environmental and risk communications practice, joined our team in mid-December. She has been particularly helpful with the timeline of events posted on our village website and with distributing information and updates to the members of our community."

The mayor said the law firm was hired in November at the recommendation of the village's attorney, John R. Patterson, Jr., and that the Village Board has "discussed components of the agreement" with a village citizens group, Healthy Hoosick Water, and received suggestions from the U.S. Environmental Protection Agency and the state Department of Health. Patterson did not respond to a request for comment.

Replay



"We are close to finalization of the agreement and are confident it will ensure local residents do not bear the costs associated with PFOA in our drinking water," Borge said in an email. "The firm ... has been instrumental in negotiating an agreement with Saint-Gobain."

A person briefed on the negotiations, but not authorized to comment publicly on the matter, said

the law firm has discussed having Saint-Gobain pay its fees directly to the firm once any agreement is finalized. In addition, Saint-Gobain has offered to pay more than \$2 million for a carbon filtration system that is expected to be installed on the village water treatment system by October. In the interim, the company is paying for village residents to receive up to five gallons of water per day from a local supermarket.

The village has not said how much the law firm or the public relations firm would be paid for their work.

David Engel, an Albany attorney who represents Healthy Hoosick Water — the citizens group that formed, in part, to pressure the Village Board to be more active in warning the public about the water contamination — said the group has been unable to get details from village leaders about their negotiations with Saint-Gobain or the agreement with FitzGerald Morris Baker Firth. He said the group has expressed concern that any agreement with the company indemnify village taxpayers from liability for the pollution.

"We have not seen any resolution adopted by the village board that reflects the terms on which that law firm was retained," Engel said. "Healthy Hoosick Water also has not been informed that an agreement was close to finalization. We are concerned that there are important technical issues that remain to be resolved. These include the performance standards to which the treatment systems will be held, as well as the overall scope of the agreement and whether it will address such needs as possibly relocating the village wells to an area unaffected by the pollution."

Dina Silver Pokedoff, a spokeswoman for Saint-Gobain, declined to provide details about any arrangement the company has to directly pay the Glens Falls law firm for its work on behalf of the village.

"We continue to discuss with the village and the DOH the details of the agreement under which Saint-Gobain will fund the temporary and permanent water filtration systems, but we would suggest that any comment on those discussions should come from village officials and the DOH," she said.

Robert J. Freeman, executive director for the state Committee on Open Government, said the village's retention of Behan Communications, even if it was done through a law firm, should have been documented in a public meeting or record.

"It seems that there would have to have been some sort of discussions or action taken by the governing body," Freeman said. "The only time that a village board can take action is at a meeting and any action it takes must be memorialized in minutes."

In its work for General Electric Co. through the years, the public relations firm owned by Mark

In its work for General Electric Co. through the years, the public relations firm owned by Mark Behan became entangled in a legal battle between GE and several river communities that filed federal lawsuits against the company when their water supplies were tainted by the PCBs dumped into the river from its plants in Fort Edward and Hudson Falls.

Attorneys for the river communities, including Engel, who represents the town of Halfmoon in the ongoing litigation, challenged the company's position to conceal thousands of internal records from public disclosure, including scores of documents related to GE's multimillion-dollar public relations campaign in opposition to dredging. GE argued in federal court that those records are privileged — that is, not subject to disclosure — including communications with Behan, a public-relations strategist and former newspaper editor. The company characterized Behan's work as being part of their legal strategy.

Freeman said he doesn't believe the public relations firm's work on behalf of the village can qualify as attorney-client privileged work product.

"Behan Communications is not a law firm, they are not lawyers, which means the advice they offer would not be privileged," Freeman said.

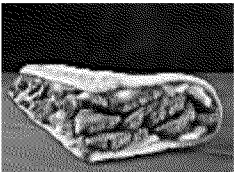
*blyons@timesunion.com • 518-454-5547 • @brendan\_lyonstu*

---

## From Around the Web



9 Celebs Who Accidentally Flashed Some Flesh (Buzz-Hut)



Fast Food You Should Never Order According to Staff (Interesticle)



Macy's is offering the Keurig for an unbelievable price (Macys.com)



The New Role of Brick and Mortar Stores (UPS)

## We Recommend

## We Recommend



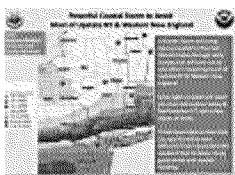
Woman arrested after crash on Northway



Schenectady woman faces felony DWI charges



Teen critic Jackson regrets Amy Schumer joke



Paralyzing elsewhere, storm will have no impact on Albany region

Recommended by

**View Comments**



[Return to Top](#)

---

**About** | [TimesUnion.com Full Site](#) [Our Company](#) [Careers](#) [Advertising](#) [Ad Choices](#) [Terms & Conditions](#) [Privacy Policy](#)  
[Your California Privacy Rights](#)

**Contact** | [Contact Us](#) [Newsroom Contacts](#)

**Connect** | [Newsletters](#) [Facebook](#) [Twitter](#) [Pinterest](#) [Google+](#) [Instagram](#)

**Subscribe** | [Subscriber Services](#) [Home Delivery](#) [iPad app](#) [Times Union Plus](#) [Copyright and Reprint](#) [eEdition](#)

---

© Copyright 2016 The Hearst Corporation